

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date: 9-3-1990

Present

Hon'ble Shri NV Krishnan, Administrative Member

and

Hon'ble Shri N Dharmadan, Judicial Member

OA No.617/89

Mutnuri Radha Krishna Murthy : Applicant

Vs.

1 Government of India, Ministry of Information & Broadcasting, Sastrabhavan, New Delhi rep. by its Secretary.

2 Chief Producer, Films Division, Ministry of Information & Broadcasting, Govt. of India, 24-Dr G. Deshmuk Marg, Bombay-26.

3 Administrative Officer, Films Division, Ministry of Information and Broadcasting, Govt. of India, 24-Dr. G Deshmuk Marg, Bombay-26 : Respondents

M/s M Lalitha Nair & SM Prem : Counsel of Applicant
KP
Mr Thanga Koya Thangal, ACGSC : Counsel of Respondents

O R D E R

Shri NV Krishnan, Administrative Member.

The applicant is employed in the Films Division of the Ministry of Information and Broadcasting with his Headquarters at Trivandrum. His grievance is that by Annexure A6, the third respondent has rejected his request for a transfer to Hyderabad. This is despite the direction given by this Tribunal to Respondent-3 (i.e., the Administrative Officer, Films Division,

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Ministry of Information and Broadcasting) in OA 352/89.

The direction was that the representation which the applicant was permitted to make for his transfer to Hyderabad should be considered and in doing so the third respondent was further specifically directed to take into consideration ~~of~~ the fact that the applicant was left with less than 2 years of service, and hence he deserved a posting to his native place on compassionate ground. Despite this, the third respondent has now rejected the representation filed by him on 9.9.89 by the impugned order dated 6.10.89 (Annexure A6). It is stated/that order that the applicant's representation for transfer to Hyderabad has been rejected after considering all new points raised by him, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ as there was no vacant post of salesman (i.e., the post held by the applicant when he made the application) at Hyderabad to accommodate him there.

2 We have perused the records and heard the counsel on both sides.

3 There is no doubt that the tenor of the direction by the Tribunal on 4.9.89 in the OA 352/89 required Respondent-3 to consider the applicant's representation with all sympathy. The operative portion of that order can usefully be re-produced to understand the spirit behind the direction.

"The petitioner while working as Salesman in the Film Division of the Ministry of Information & Broadcasting at Trivandrum approached this Tribunal with the grievance that the respondents are not granting him any transfer to his native place Viz. Hyderabad, in spite of repeated requests. It is also submitted that he has now been reverted as Senior Booker (sic) and the reversion order has been challenged before the Tribunal in a separate Original Application and it is pending.

2. The petitioner belongs to Andhra Pradesh and he is seeking for a transfer over to that place from 1985 onwards. He is to retire in December, 1990. He filed representations before the third respondent requesting for a transfer to his native place from 1985. All his requests have been turned down by the third respondent stating that his case will be considered when vacancy arises in the post of Salesman. From the latest order Annexure A-5, it is seen that the petitioner has not been transferred to Hyderabad even though a vacancy arose in 1988. But a person newly selected by UPSC was posted to Hyderabad Branch very recently without considering the case of the petitioner to that vacancy. However, the third respondent should take into consideration the fact that the petitioner has less than two years of service and hence he deserves a posting to his native place on compassionate grounds.

3 The arguments of the learned counsel for the respondents is also heard in this matter, but I feel that the case can be disposed of with the following directions in the interest of justice.

- (i) The petitioner shall file a detailed representation stating all his grievances before the third respondent within two weeks from to-day.
- (ii) If such a representation is filed the third respondent shall consider the same, uninfluenced by any of the statements in Annexure A-5, and pass appropriate orders within a month from the date of receipt of the representation, considering the special aspects and circumstances pointed out by the petitioner.

4 The Original Application is disposed of with the above observations".

4 The impugned order does not advert to two important points mentioned in that earlier order. Firstly, no notice is taken of the applicants impending retirement. Secondly, the representation does not seem to have been considered with the compassion it deserved. If there was no vacancy

at Hyderabad the respondents could have ascertained whether the applicant wanted a posting at some other *in Andhra Pradesh* place. It is, however, true that Respondent-3 has shown a valid and plausible reason in his Annexure A6 letter for his inability to appoint the applicant at Hyderabad as there was no vacant post.

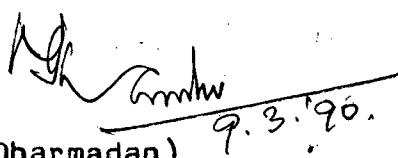
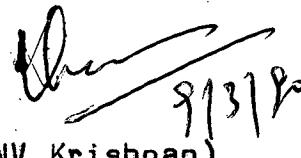
5 We are of the view that this is a case of an official who has served the respondents at various places during his services and is now due to retire in December, 1990. He has been in Trivandrum continuously since 1978. His request for a transfer to his home town is certainly reasonable and should have been accommodated, unless there were specific administrative reasons which warranted his being kept away from his Home Town.

6 The applicant has not filed a copy of the representation dated 9.9.89 filed by him which has been rejected by the impugned Annexure A6 memorandum. It would appear that the applicant specifically sought a transfer to Hyderabad only which could not be allowed as there was no vacant post at Hyderabad. When this was put across to the learned counsel for the applicant, he agreed at the Bar that the applicant could be transferred to any place

in Andhra Pradesh before he retires from service.

7 The applicant has since been promoted as Branch Manager from 27.11.89. We are of the view that considering the special circumstances of the case and the fact that season for normal transfers is fast approaching, it is necessary to issue specific directions to the respondents to post him to the next vacancy of Branch Manager that may arise in Andhra Pradesh Division even if it means that the applicant would have a very short spell at that place. We do so.

8 The application is allowed with the above directions and there will be no order as to costs.

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(N Dharmadan)
Judicial Member

(NV Krishnan)
Administrative Member

9-3-1990